


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILE 
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ROBERT R. DI NICHIO
CLERK, U.S. DIST. CT.
W.D. OF TN, MEMPHIS

CAROL TERESA HART, by and
through her parent and next
friend, BEVERLY CAROL HART,

Plaintiffs,

vs.

SHELBY COUNTY SCHOOL DISTRICT
and SUPERINTENDENT BOBBY WEBB,
in his official capacity,

Defendant.

No. 03-2845-D/V

ORDER DIRECTING PLAINTIFF TO COMPLY WITH RULES
AND
ORDER STRIKING IRREGULAR FILINGS

On March 7, 2005, the defendant filed a motion to affirm the opinion of the administrative law judge and to dismiss this case. Local Rule 7.2(a)(2) requires that responses to motions to dismiss or for summary judgment be filed within thirty days after service of the motion. On March 16, 2005, plaintiff filed an irregular motion to continue with "Sixth Circuit Appellate Procedures." United States Magistrate Judge Diane Vescovo denied the motion as devoid of any legal or factual basis for why Sixth Circuit appellate procedures were applicable.

Judge Vescovo noted the possibility that plaintiff intended the document to be a response to the defendant's motion to dismiss, however, the document did not contain a certificate of service indicating that the document had been served upon defense counsel.

Judge Vescovo granted plaintiff fifteen (15) days from the entry of her order to re-file the motion as a response.

On April 6, 2005, plaintiff filed a "motion to hear this case in appeals court" and three irregular documents which do not contain numbered paragraphs. Fed. R. Civ. P. 10 requires that documents contain numbered paragraphs. The motion does not contain a certificate of consultation as required by Local Rule 7.2(a)(1)(B). Plaintiff addressed the documents to the undersigned judge with no designation of the purpose of the pleading. Ex parte communication by addressing comments and pleadings directly to the district judge assigned to a case is improper and inappropriate. Local Rule 83.5. None of the documents contain a certificate of service as required by Fed. R. Civ. P. 5(d) and Local Rule 83.7(b).

Plaintiff is proceeding pro se and must familiarize herself with the Federal Rules of Civil Procedure and the Local Rules of this Court so that her pleadings comply with those rules. The Court hereby directs plaintiff to file a response to the defendant's motion to dismiss which complies with the Federal and Local rules. The response shall be filed within ten days of the entry of this order upon the docket. After that date, the Court will review the defendant's motion and determine whether it should be granted.

It is further ordered that the plaintiff shall serve a copy of every further document filed in this cause on the attorney for the defendant and shall make a certificate of service on every document

filed. Plaintiff is hereby directed that any further documents that do not contain a certification at the end reading:

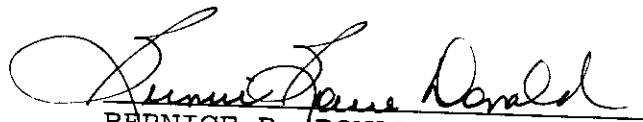
I hereby certify that a true and exact copy of the foregoing has been forwarded by first class, postage prepaid mail, to Timothy Smith, 2670 Union Extended, Suite 1200, Memphis, TN 38112, on this ____ day of ____, 2003.

Beverly Carol Hart

Accordingly, it is ORDERED that plaintiff's motion and irregular filings, docket entries 44, 45, 46, and 47, are stricken from the docket in this case because they do not comply with the Federal Rules of Civil Procedure or the Local Rules of this Court. Furthermore, the documents were not served on opposing counsel. The Clerk is ORDERED not to accept for filing any further documents submitted by this plaintiff that are not accompanied by a certificate of service or certificate of consultation as required.

A failure to timely comply with any requirement of this order will result in the dismissal of the complaint. The plaintiff must also keep this Court informed of her current address. If plaintiff fails to inform the Court of a change of address, she will not be excused for failing to comply with the Court's orders and deadlines because an order was delayed or not delivered.

IT IS SO ORDERED this 18th day of April, 2005.


BERNICE B. DONALD
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 50 in case 2:03-CV-02845 was distributed by fax, mail, or direct printing on April 19, 2005 to the parties listed.

Timothy W. Smith
LAW OFFICE OF TIMOTHY W. SMITH
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Memphis, TN 38112

Beverly Carol Hart
1614 Sorghum Mill
Cordova, TN 38016

Honorable Bernice Donald
US DISTRICT COURT